

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

WENDY'S NETHERLANDS B.V.,

Plaintiff,

v.

ANDREW LEVY,

Defendant.

Civil Action No. 2:24-cv-03077

Judge Michael H. Watson

Magistrate Judge Kimberly Jolson

DEFENDANT'S UNOPPOSED MOTION TO DESIGNATE
JON POLENBERG AS "TRIAL ATTORNEY"

Under Local Rule 83.4, all parties must be represented at all times by a "Trial Attorney" who is a permanent member in good standing of the bar of this Court. Admission *pro hac vice* does not entitle an attorney to appear as a party's Trial Attorney. But the Court may, in its discretion and upon motion that shows good cause, permit an attorney who has been admitted *pro hac vice* to act as a party's Trial Attorney. Here, attorney Jon Polenberg was admitted *pro hac vice* on March 5, 2025. Defendant, Andrew Levy, moves to have Mr. Polenberg designated as his Trial Attorney.

A memorandum in support is incorporated herein.

Respectfully submitted,

/s/ John A. Borell, Jr., Trial Attorney

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Counsel for Defendant

MEMORANDUM IN SUPPORT

Under Local Rule 83.4, the Court may, in its discretion, and upon motion that shows good cause, permit an attorney who has been admitted *pro hac vice* to act as a party's Trial Attorney.

Here, Defendant moved to have attorney Jon Polenberg admitted *pro hac vice*; On March 5, 2025, the Court granted the motion, and Mr. Polenberg was admitted *pro hac vice*. Consistent with the Order, Mr. Polenberg registered for the Court's ECF system on March 5, 2025, which the Court processed on March 6, 2025.

Defendant now seeks to have Mr. Polenberg designated his Trial Attorney.

Good cause exists as Mr. Polenberg is most familiar with the facts and circumstances of this matter, having represented Defendant prior to this matter. Based on his prior representation of Defendant and his familiarity with this matter, Defendant intends to have Mr. Polenberg act as lead counsel at the upcoming evidentiary hearing and any other hearing, conference, or the trial of this matter.

As noted in the *pro hac vice* motion and the attached declaration (Exhibit 1), Mr. Polenberg was admitted to practice in the State of Florida in September 2003 and is admitted to multiple federal courts including:

- 11th Circuit Court of Appeals
- United States District Court, Southern District of Florida
- United States District Court, Middle District of Florida
- United States District Court, Northern District of Florida
- United States District Court, Central District of Illinois

Thus, Mr. Polenberg has extensive experience practicing in the federal courts. Mr. Polenberg has also reviewed and familiarized himself with the Court's Local Rules.

If Mr. Polenberg is not designated as Trial Attorney for Defendant, the undersigned counsel will attend the upcoming evidentiary hearing as the designated Trial Attorney, as well as any other hearing, conference, or the trial of this matter, though Mr. Polenberg will take the lead at these proceedings. Defendant requests Mr. Polenberg be permitted to act as his Trial Attorney to avoid Defendant incurring the cost of having two attorneys appear for him.

On March 5, 2025, counsel for Defendant informed counsel for Plaintiff that Defendant was filing this motion and counsel for Plaintiff stated they did not oppose the motion.

Based on his familiarity with Defendant and the background of this matter and his experience with the federal courts, there is good cause for this Court to designate Mr. Polenberg as Trial Attorney for this matter.

Accordingly, Defendant requests the Court designate Mr. Polenberg as Trial Attorney for this matter.

Respectfully submitted,

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Counsel for Defendant
Andrew Levy

CERTIFICATE OF SERVICE

On March 6, 2025, this document was filed electronically with the Clerk of the United States District Court for the Southern District of Ohio, Eastern Division, which will electronically serve a copy of the foregoing on all counsel of record for all parties.

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